

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

KELVIN JORDAN

PETITIONER

VS.

CIVIL ACTION NO.: 2:13CV301TSL

**PELICIA HALL, Commissioner of the Mississippi
Department of Corrections; MARSHALL TURNER,
Superintendent of the Mississippi State Penitentiary,
and JIM HOOD, Attorney General of the State of
Mississippi**

RESPONDENT

**ORDER GRANTING MOTION TO SUBSTITUTE COUNSEL AND
MOTION FOR EXTENSION OF TIME TO FILE MOTION TO AMEND**

This matter came before the Court on two Motions filed by the Petitioner: a Motion to Substitute Counsel [Doc. #88] and a Motion for Extension of Time to File Motion Seeking Leave to File Amended Petition [Doc. #89]. The Respondents have not opposed either Motion. Having reviewed both Motions, the Court is of the opinion that they should be granted, subject to the conditions explained below.

The Motion to Substitute Counsel was filed because one of Jordan's current attorneys, Stacy Ferraro, has taken a permanent, full-time position with the Office of the State Public Defender and is not permitted to engage in the practice of law outside of that office. This Motion will be granted. The Court has reviewed its Capital Habeas CJA Panel and has determined that Tom Levidiotis, a member of the Panel with experience in capital habeas cases, should be appointed in place of Ms. Ferraro. The Court has contacted Levidiotis, and he is willing to accept this Appointment. Rob Mink will remain designated as lead counsel, and both attorneys will be compensated at the maximum rate set forth in the *Guide to Judiciary Policy*, vol. 7, § 630.10.

The Court has reviewed the attorneys' fees billed to date and determined that they amount to almost \$35,000.00, which is the presumptive maximum permitted by the Fifth Circuit in a capital case. For that reason, and to insure that these attorneys are fully and expediently paid, the Court will order that counsel prepare a budget for the remaining work on this case. That budget should include any attorneys' fees that have not yet been billed and may be submitted to the Court *ex parte*. Should counsel need help in preparing this budget, they are directed to consult with the Circuit Case-Budgeting Attorney and the Court's Death Penalty Law Clerk. Once this Court has approved the budget, it will be forwarded to the Chief Judge of the Fifth Circuit for his approval.

With regard to the Motion for Extension of Time to File Motion Seeking Leave to File Amended Petition, the Court is of the opinion that the request is justified by the appointment of new counsel, as well as the need for counsel to prepare and submit a budget for the remaining work on this case. This Motion will also be granted. In so doing, the Court will set two deadlines in this matter: one for submission of a budget and another for filing the Motion Seeking Leave to File Amended Petition.

IT IS, THEREFORE, ORDERED, as follows:

1. The Petitioner's Motion to Substitute Counsel [Doc. #88] is hereby **granted**. Stacy Ferraro is permitted to withdraw from this case, and Tom Levidiotis is appointed as co-counsel with Rob Mink. Mink will continue to act as lead counsel. The Clerk is directed to send to Levidiotis all forms and vouchers necessary to permit him to comply with the requirements for obtaining reimbursement for expenses and payment for attorneys' fees for services rendered in connection with this cause.

2. The Petitioner's Motion for Extension of Time to File Motion Seeking Leave to File Amended Petition [Doc. #89] is also **granted**. Counsel shall submit, *ex parte*, a proposed budget for the remaining work on this case by April 16, 2018. The Petitioner's motion for leave to file an amended petition is due on or before August 16, 2018.

IT IS SO ORDERED, this the 13th day of March, 2018.

/s/Tom S. Lee
UNITED STATES DISTRICT JUDGE